

EXHIBIT A

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1	IN THE DISTRICT COURT OF THE UNITED STATES	1 KEVIN S. ERNST
2	FOR THE EASTERN DISTRICT OF MICHIGAN	2 HANNAH FIELSTRA
3	SOUTHERN DIVISION	3 Ernst, Charara & Lovell
4		4 546 Griswold, Suite 4100
5	PATTI JO CAHOO, KRISTEN MENDYK,	5 Detroit, Michigan 48226
6	and KHADIJA COLE, HYON PAK, and	6 313.965.5555
7	MICHELLE DAVISON, individually and	7 kevin@ecllawfirm.com
8	on behalf of similarly situated	8 hannah@ecllawfirm.com
9	persons,	9 Appearng on behalf of the Plaintiffs.
10	Plaintiffs,	10
11	vs. Case No. 17-10657	11 STEPHANIE A. DOUGLAS
12	Hon. David M. Lawson	12 Bush Seyferth, P.L.L.C.
13	SAS INSTITUTE, INC., FAST ENTERPRISES,	13 3001 West Big Beaver Road
14	L.L.C., CSG GOVERNMENT SOLUTIONS,	14 Suite 600
15	STEVE GESKEY, in his individual capacity,	15 Troy, Michigan 48084
16	SHEMIN BLUDELL, in her individual capacity,	16 248.822.7806
17	DORRIS MITCHELL, in her individual capacity,	17 douglas@bsplaw.com
18	DEBRA SINGLETON, in her individual capacity,	18 Appearng on behalf of Defendant SAS Institute, Inc.
19	JULIE A. McMURTRY, in her individual capacity,	19
20	SHARON MOFFET-MASSEY, in her individual capacity,	20
21	Defendants.	21
22		22
23	Videotaped Deposition of Sharon A. Moffett-Massey	23
24	December 19, 2019	24
25	Bloomfield Hills, MI	25
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1	The Videotaped Deposition of SHARON A.	1 ERIK F. STIDHAM
2	MOFFETT-MASSEY,	2 Holland & Hart, L.L.P.
3	Taken at 1760 South Telegraph Road, Suite 300,	3 800 West Main Street
4	Bloomfield Hills, Michigan,	4 Suite 1750
5	Commencing at 9:19 a.m.,	5 Boise, Idaho 83701
6	Thursday, December 19, 2019,	6 208.342.5000
7	Before Randee E. Sharfman, CSR-1392.	7 efstidham@hollandhart.com
8		8 Appearng on behalf of Defendant Fast Enterprises,
9	APPEARANCES:	9 L.L.C.
10		10
11	TONY PARIS	11 STEPHEN J. ROSENFIELD
12	JOHN C. PHILO	12 McDonald Hopkins, L.L.C.
13	Sugar Law Center	13 300 North LaSalle Street
14	4605 Cass Avenue	14 Suite 1400
15	Second Floor	15 Chicago, Illinois 60654
16	Detroit, Michigan 48201	16 312.280.0111
17	313.993.4505	17 srosenfeld@mcdonaldhopkins.com
18	tparis@sugarlaw.org	18 Appearng on behalf of Defendant CSG Government
19	jphilo@sugarlaw.org	19 Solutions.
20	Appearing on behalf of the Plaintiffs.	20
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4 Suite 2100	6	6 EXAMINATION	
5 Cleveland, Ohio 44114	7	7 BY MR. STIDHAM:	11
6 216.905.4564	8	8 EXAMINATION	
7 jarmstrong@mcdonaldhopkins.com	9	9 BY MR. ROSENFELD:	38
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14 Suite 9-600	16	16 EXAMINATION	
15 Detroit, Michigan 48202	17	17 BY MR. BRAVERMAN:	362
16 313.456.2200	18	18 REEXAMINATION	
17 pendrickkk@.michigan.gov	19	19 BY MR. STIDHAM:	366
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6 Lansing, Michigan 48933	9	9 DEPOSITION EXHIBIT 64	136
7 517.335.7641	10	10 DEPOSITION EXHIBIT 65	136
8 braverman@michigan.gov	11	11 DEPOSITION EXHIBIT 66	158
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18 taylord@michigan.gov	21	21 DEPOSITION EXHIBIT 76	228
19 Appear on behalf of Defendant Sharon Moffett-	22	22 DEPOSITION EXHIBIT 77	330
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22 ALSO PRESENT:	25	25 DEPOSITION EXHIBIT 80	330
23 Neal Durkin - Video Technician			
24 Shemin Blundell			
25			

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1 DEPOSITION EXHIBIT 81	330	1 MS. TAYLOR: Assistant Attorney General
2 DEPOSITION EXHIBIT 82	330	2 Debbie Taylor representing the witness Sharon
3 DEPOSITION EXHIBIT 83	330	3 Moffett-Massey.
4 DEPOSITION EXHIBIT 84	330	4 MR. STIDHAM: Erik Stidham of Holland &
5 DEPOSITION EXHIBIT 85	330	5 Hart on behalf of defendant Fast Enterprises.
6		6 MR. ROSENFIELD: Stephen Rosenfeld and
7		7 Jennifer Armstrong on behalf of CSG Government
8		8 Solutions.
9		9 SHARON MOFFETT-MASSEY,
10		10 was thereupon called as a witness herein, and after
11		11 having first been duly sworn to testify to the truth,
12		12 the whole truth and nothing but the truth, was
13		13 examined and testified as follows:
14		14 MR. STIDHAM: Ms. Moffett-Massey, my name
15		15 is Erik Stidham and I represent Fast Enterprises.
16		16 EXAMINATION
17		17 BY MR. STIDHAM:
18		18 Q. Would you state your full name for the record, if you
19		19 would.
20		20 A. Sharon Ann Moffett-Massey.
21		21 Q. Ms. Moffett-Massey, I do understand and appreciate
22		22 that you've made it here even though you've got a bit
23		23 of a cold that's affecting your voice.
24		24 So of course you ever need to take a break
25		25 for any reason, get a drink of water, whatever, just
Page 10		Page 12
1 Bloomfield Hills, Michigan		1 tell us and we'll accommodate that.
2 Thursday, December 19, 2019		2 A. Thank you.
3 9:19 a.m.		3 Q. Or just need to take a break because your voice is
4		4 getting tired, just tell us, all right?
5 VIDEO TECHNICIAN: we are on the record.		5 A. All right. Thank you.
6 This is the video deposition of Sharon Moffett-Massey,		6 Q. Have you ever been deposed before?
7 being taken in Bloomfield Hills, Michigan. Today is		7 A. My apologies.
8 December the 19th, 2019. The approximate time is 9:19		8 Q. Have you ever been deposed before?
9 a.m.		9 A. No, I have not.
10 Would the attorneys please introduce		10 Q. So let me give you just a couple of ground rules --
11 themselves and who they represent, and the court		11 A. Okay.
12 reporter please swear in the witness.		12 Q. -- that will make today hopefully move more smoothly.
13 MR. ERNST: Kevin Ernst for plaintiff.		13 First, even though you're being -- she's
14 MS. FIELSTRA: Hannah Fielstra on behalf of		14 transcribing -- you're being transcribed and the video
15 plaintiffs.		15 is going, so it's important that you answer in
16 MR. PHILO: John Philo and Tony Paris on		16 sentences or words rather than gestures; do you
17 behalf of plaintiffs from Sugar Law Center.		17 understand that?
18 MS. DOUGLAS: Stephanie Douglas on behalf		18 A. That is correct.
19 of SAS Institute, Inc.		19 Q. Also, I have a very bad habit of pausing in the middle
20 MR. BRAVERMAN: Assistant Attorney General		20 of my questions, so just do your best to let me get
21 Chris Braverman on behalf of Defendant Julie McMurtry.		21 the entire question out before you respond; is that
22 MS. PENDRICK: Assistant Attorney General		22 fair?
23 Kim Pendrick on behalf of defendants Geskey, Blundell,		23 A. Yes.
24 Mitchell, and Singleton; and also with us for the		24 Q. That's important because if we talk over one another,
25 deposition today is Shemin Blundell.		25 it'll be impossible for the court reporter to

<p>1 effectively get everything down; do you understand 2 that?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Okay. Also, if I ask you a question and if for any 5 reason you don't understand it, please just tell me 6 and I'll do my best to rephrase the question; is that 7 fair?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Likewise, if I ask a question and you respond 10 to it, I'll assume you understood the question; is 11 that fair?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Again, if you need to take a break to 14 accommodate anything, it's not an endurance contest, 15 so just tell us and we'll do that, okay?</p> <p>16 A. Sure.</p> <p>17 Q. First off, Ms. Moffett-Massey, can you give me an 18 overview of your educational background?</p> <p>19 A. Beginning with elementary school, or are we talking 20 post secondary?</p> <p>21 Q. Unless it's something that you're really, really proud 22 about in elementary, we can start with -- just when 23 did you graduate high school and where was that?</p> <p>24 A. High school was Muskegon Catholic Central, that would 25 be in Muskegon, Michigan, and that graduation date was</p>	<p>Page 13</p> <p>1 was given a choice to stay with private company or 2 move on with the state when the state assumed it. 3 After about a period of a year, the state 4 was going to move it back into the private industry, 5 and you then were given a choice to interview for 6 state jobs to become a permanent state employee, at 7 which time I did, and that was approximately 1989.</p> <p>8 Q. Okay.</p> <p>9 A. I did that, I was hired on with the State of Michigan 10 unemployment insurance agency as a claims examiner for 11 the Flint branch office.</p> <p>12 Q. If I can just interrupt you there. So 1989, it sounds 13 like you start with the Michigan unemployment UIA, 14 correct?</p> <p>15 A. Correct.</p> <p>16 Q. Your first job was as a claims examiner?</p> <p>17 A. Uh-huh. Yes, it was a claims examiner, and it was 18 Michigan Employment Security Commission at that time. 19 The agency has gone through several name changes.</p> <p>20 Q. But it's the same agency that we now call UIA; is that 21 fair?</p> <p>22 A. That is correct.</p> <p>23 Q. Can you explain to me what your duties were as a 24 claims examiner when you first started out?</p> <p>25 A. For the most part, processing claims. I was trained</p>	<p>Page 15</p>
<p>1 June of 1984. I went on to Muskegon Community 2 College, and graduated in 1986; that was a two-year 3 college with my associate's degree. 4 From there I went on to Michigan State 5 University, and graduated in 1988, June of 1988. I 6 had one year of law school at Cooley Law School, I did 7 not graduate; I pursued my career with the State of 8 Michigan. 9 Q. Can I ask what your degree at Michigan State was in? 10 A. Social science. 11 Q. Social science? 12 A. Political science. 13 Q. Thank you. Kind of similarly, can you give me an 14 overview of your work experience after that year at 15 Cooley? 16 A. I worked one year with the accident fund, which is 17 workers' comp insurance. 18 Q. That's an entity within the State; is that correct? 19 A. That was not. The accident fund, it was not and then 20 it was, so let me explain. 21 Q. Sure. 22 A. Initially it was not a state agency or part of the 23 state government. It was assumed by state government 24 by Governor Blanchard. 25 At that time employees of the accident fund</p>	<p>Page 14</p> <p>1 in all aspects of claims. 2 MR. ERNST: I'm sorry, can you keep your 3 voice up. 4 THE WITNESS: I was trained in all aspects 5 of claims from intake, which is taking the claim over 6 the counter, to adjudicating that claim. So that 7 would have been fact finding, taking statements from 8 claimant, the unemployed worker and the employer, and 9 rebuttals if necessary. 10 After about maybe six months to a year on 11 the job, I was also assigned to peer hearings for 12 cases that I had written as well on behalf of the 13 agency. 14 BY MR. STIDHAM: 15 Q. And you used the term "adjudication" when you were 16 describing your duties as a claims examiner. 17 Can you explain to me what you mean by 18 adjudication in this context of unemployment claims? 19 A. Adjudicating the claim went from taking the statement 20 from the claimant and/or sending out questions to the 21 employer. 22 Typically you have the claimant in front of 23 you, and we did face-to-face interviews with them, 24 sit-down interviews with them to find out why they 25 were unemployed. Whether it was voluntarily leaving</p>	<p>Page 16</p>

<p>1 or dismissal from, you know, their position.</p> <p>2 After receiving all of the information, all 3 of the fact finding, if you will, information back 4 from the claimant, information back from the employer, 5 based on guidelines and policy procedure and the MESC 6 Act, a decision is made and the citing of the fact 7 that was used to support that decision.</p> <p>8 Q. You say "that decision," is that what I've also heard 9 referred to as a notice of determination?</p> <p>10 A. That would be correct.</p> <p>11 Q. Just so you and I are clear when we're communicating, 12 if I use the term "adjudication" in the context of 13 unemployment claims, I'm intending to refer to this 14 initial notice of determination; is that acceptable 15 for us as far as we're communicating?</p> <p>16 A. Yes.</p> <p>17 Q. If for some reason I misuse the term or I'm getting 18 the process confused, which trust me I will, just 19 clarify.</p> <p>20 But I wanted to make it clear that when I'm 21 using adjudication, when you and I talk we use 22 adjudication to refer to that initial determination 23 relating to unemployment insurance, that that's how 24 I'm intending to use it; is that fair?</p> <p>25 A. Yes.</p>	<p>Page 17</p> <p>1 Q. Two years. Can you explain to me what your duties 2 were as a branch manager?</p> <p>3 A. I oversaw all operations for that branch office from 4 the rent payment to the stopped up toilets to the 5 staffing, administrating unemployment. So the staff 6 in its entirety as well as the operations of the 7 office itself.</p> <p>8 Q. Okay. Just so we can put a time frame in here, what's 9 this period that you worked as a branch manager? I 10 want to make sure I'm tracking.</p> <p>11 A. That would have been about 1999 to about 2001.</p> <p>12 Q. Okay. In 2001 did your role change?</p> <p>13 A. It did.</p> <p>14 Q. What happened?</p> <p>15 A. We were transitioning from the local branch offices to 16 what are now called contact centers, but at the time 17 they were referred to as call centers. State was also 18 going through another retirement phase, so we were 19 losing more regional directors and branch managers at 20 that time.</p> <p>21 So in my position as Freemont branch 22 manager, which it had changed from a 14 level to a 15 23 level at this point because of the volume of work that 24 we were accomplishing, I was asked by the regional 25 director to oversee the Grand Rapids branch office</p>
<p>Page 18</p> <p>1 Q. How long did you work as a claims examiner in that 2 role, I should say?</p> <p>3 A. Roughly about five years.</p> <p>4 Q. Okay. What was your next position within the agency?</p> <p>5 A. I took a limited term position as a supervisor, 6 adjudication supervisor, and that was in the Detroit 7 area, the Oakman branch office.</p> <p>8 Q. Okay. How did -- how did your responsibilities change 9 in that position?</p> <p>10 A. As an adjudication supervisor I oversaw the work of 11 claims examiners who was doing the same job that I was 12 doing, which was adjudicating claims.</p> <p>13 Q. How long did you work in that role as adjudication 14 supervisor?</p> <p>15 A. About six to nine months. The agency was going 16 through a retirement phase where I guess, I would say, 17 bonus type of a retirement where we were losing a lot 18 of branch managers as well as regional directors 19 during this time.</p> <p>20 So I interviewed for a position as a branch 21 manager, and was offered that position and I became 22 the Freemont branch manager.</p> <p>23 Q. Okay. How long were you in the role of branch 24 manager?</p> <p>25 A. Roughly about two years.</p>	<p>Page 20</p> <p>1 because that branch manager was retiring earlier, and 2 then most of the managers, which I did.</p> <p>3 I was also a part of the building 4 facilities committee which basically decided where 5 these call centers would be placed in the cities that 6 they were placed in and looked at the buildings and 7 things like that.</p> <p>8 I was responsible in my role as a 15 level 9 branch manager to transition all staff on the West 10 side of the state into the Grand Rapids call center, 11 which was known as the remote issue call center or 12 RICC.</p> <p>13 Q. Okay.</p> <p>14 A. After about a year or so getting everyone in, 15 interviews were held for the actual RICC director, 16 which I interviewed for and was selected, which 17 brought me to a 17 state division administrator.</p> <p>18 Q. Okay.</p> <p>19 A. Working title as RICC director.</p> <p>20 Q. I just need an overview, ma'am.</p> <p>21 So what were your duties as a RICC 22 director?</p> <p>23 A. Overseeing the entire operations of that call center.</p> <p>24 Q. Okay. Great. How long were you in that role?</p> <p>25 A. A little over ten years or so.</p>

<p style="text-align: right;">Page 21</p> <p>1 Q. So just to make sure we're tracking our time period 2 again, what's that ten-year period, to the best of 3 your recollection?</p> <p>4 A. 2001 to about 2012.</p> <p>5 Q. Okay. Sounds like you had a change of position in 6 2012; is that correct?</p> <p>7 A. In some cases my position was the same, but I was 8 working out of class as a 18 at one point for about 9 six months.</p> <p>10 The customer service director became the 11 acting agency director, and I was selected to fill 12 that role, after which time I reverted back to my 17, 13 once working out of class.</p> <p>14 Then as a 17 I was selected for special 15 projects while still maintaining my 17; so I was on 16 different special projects.</p> <p>17 After the last project with the tax office, 18 I believe I was appointed as chief of staff for the 19 agency.</p> <p>20 Q. Okay. When did you get appointed chief of staff for 21 the agency?</p> <p>22 By agency, we're referring to UIA, correct?</p> <p>23 A. Correct, the unemployment insurance agency. That 24 would have been about 2013 to -- almost a year, 2014.</p> <p>25 Q. Okay. And what, again at a high level, were your</p>	<p style="text-align: right;">Page 23</p> <p>1 getting an overview of your work experience, and you 2 were -- you spoke about the work you did as chief of 3 staff at the agency. 4 What was that time period again that you 5 were functioning as chief of staff for UIA? 6 A. I believe that was 2013, 2013 to 2014, approximately. 7 I'm not quite sure the month, but it was about a year. 8 Q. Okay. What was your next position after the chief of 9 staff position? 10 A. I was selected for the agency director position, 2014, 11 April of 2014. 12 Q. So in April of 2014, you're appointed to be and take 13 the position of director of UIA? 14 A. That is correct. 15 Q. How long were you in that role? 16 A. Till January 2017. 17 Q. What role did you take in January of 2017, what new 18 role did you take? 19 A. I was reassigned to the workforce side of the house, 20 still under talent investment agency but workforce 21 side assisting Michigan Works agency with talent 22 efforts. 23 Q. Going back to your time as the director of the agency 24 in that 2014 to end of 2016 time frame, okay? 25 A. Yes.</p>
<p style="text-align: right;">Page 22</p> <p>1 duties as chief of staff for the agency in that 2013 2 to 2014 time period?</p> <p>3 A. My main role was to work with staff. We were 4 transitioning to a new system. Hearing from staff, 5 how can we make things better and make the transition 6 better for them more smoothly.</p> <p>7 We had also come off a reduction in force, 8 so there were a lot of staff that were still very 9 concerned. They lost coworkers, they were picking up 10 more assignments, more workflow with less staff.</p> <p>11 So there was a lot of resentment, a lot of 12 hurt feelings, and trying to bridge that gap while 13 also trying to, of course, take care of the day-to-day 14 workflow, processing claims, collecting taxes.</p> <p>15 MR. STIDHAM: Can we go off the record for 16 just a second.</p> <p>17 VIDEO TECHNICIAN: We are off the record. 18 The time is 9:37 a.m.</p> <p>19 (Off the record at 9:37 a.m.)</p> <p>20 (Back on the record at 9:38 a.m.)</p> <p>21 VIDEO TECHNICIAN: We are back on the 22 record. The time is 9:38 a.m.</p> <p>23 BY MR. STIDHAM:</p> <p>24 Q. All right. So, Ms. Moffett-Massey, before we took a 25 little break for technical difficulties, we were just</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. What were your duties as director of the UIA? 2 A. Overseeing all operations for the agency, ensuring 3 that claims were being processed and taxes were being 4 collected from employers. 5 Q. Okay. Ma'am, do you understand that you've been sued 6 individually in this case? 7 A. I do understand that. 8 Q. Do you have kind of a general familiarity with the 9 complaint? 10 A. Yes, I do. 11 Q. As I indicated at the outset, I represent Fast 12 Enterprises; do you understand that? 13 A. Yes. 14 Q. Do you understand that Fast Enterprises is a company 15 that provides software to government agencies, and in 16 this case help to provide software relating to the 17 MiDAS project? 18 A. Yes. 19 Q. Do you understand that there's allegations in this 20 complaint that Fast performed certain functions, 21 discretionary functions, and made discretionary 22 decisions on behalf of the state? 23 A. I do understand that. 24 Q. Is it fair to say that those assertions are 25 inaccurate, and that Fast only took actions at the</p>

<p>1 direction of the state?</p> <p>2 MR. ERNST: Objection, form.</p> <p>3 A. I agree that the state made the ultimate decision as</p> <p>4 far as the direction that Fast took with whatever task</p> <p>5 that we were asking Fast to do on the agency's behalf.</p> <p>6 BY MR. STIDHAM:</p> <p>7 Q. I appreciate that. And again if I ask a question that</p> <p>8 is not just worded in a way that you understand it</p> <p>9 or -- and plenty of time I just ask a bad question,</p> <p>10 tell me to retry and ask it again, okay?</p> <p>11 A. Okay.</p> <p>12 Q. All right. So along those same lines, do you</p> <p>13 understand that Fast's obligations were defined by a</p> <p>14 contract that it had with UIA?</p> <p>15 MR. ERNST: Object to form.</p> <p>16 A. I would agree with that.</p> <p>17 BY MR. STIDHAM:</p> <p>18 Q. I'll represent to you that Fast is unaware of any</p> <p>19 contention by the State that Fast did not properly</p> <p>20 perform its contractual duties.</p> <p>21 Are you aware of any contention by the</p> <p>22 State that Fast didn't meet its contractual</p> <p>23 obligations?</p> <p>24 A. I'm not aware of that.</p> <p>25 Q. And that's certainly not a position you took when you</p>	<p>Page 25</p> <p>1 those programs were -- or the software was written in</p> <p>2 accordance to what the agency gave Fast directions on.</p> <p>3 BY MR. STIDHAM:</p> <p>4 Q. I appreciate that, ma'am.</p> <p>5 A. Okay.</p> <p>6 Q. Again, if I ask any questions and you need to clarify</p> <p>7 time frames and the role you were in at the relevant</p> <p>8 time, that's extremely helpful; so thank you for doing</p> <p>9 that.</p> <p>10 A. Sure.</p> <p>11 Q. But just to understand your last answer but maybe to</p> <p>12 can clarify it a little bit, is it your understanding</p> <p>13 that any of the notice -- the notice period that was</p> <p>14 used by MiDAS, that was a notice period that was</p> <p>15 defined by somebody at the State, not by Fast?</p> <p>16 A. I would agree with that.</p> <p>17 Q. Is it fair to say what would happen if a claimant did</p> <p>18 not respond to notice that was sent out for additional</p> <p>19 information, so what would happen after that, was</p> <p>20 determined by the State, not by Fast; is that fair?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Is it also fair to say that any penalties that</p> <p>23 were assessed regarding determinations of fraud or</p> <p>24 even potential determinations of fraud once the MiDAS</p> <p>25 project was in place, those were all decisions made by</p>
<p>Page 26</p> <p>1 were head of UIA, that Fast had somehow not met its</p> <p>2 obligations to the State; is that fair?</p> <p>3 A. That is fair.</p> <p>4 Q. Also, there are certain issues that have been</p> <p>5 identified in this complaint. One of them relates to</p> <p>6 the decision by the agency to make certain</p> <p>7 determinations if no response is given by a claimant</p> <p>8 when an inquiry for additional information is made;</p> <p>9 are you aware of those allegations?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Is it fair to say Fast did not play any role</p> <p>12 or -- Strike that.</p> <p>13 Is it fair to say Fast did not make any</p> <p>14 decisions as part of the MiDAS project regarding how</p> <p>15 much notice should be provided to claimants?</p> <p>16 MR. ERNST: Objection to form.</p> <p>17 A. I cannot say in the initial stages of when MiDAS was</p> <p>18 brought on board and the parameters or the rules set</p> <p>19 around what the system could or could not do. I was</p> <p>20 not the agency director at that time, nor was I part</p> <p>21 of any of the work groups that gave input on what</p> <p>22 MiDAS could or could not do.</p> <p>23 I can only tell you after the fact, I was</p> <p>24 aware that, you know, that was basically agency gave</p> <p>25 information to Fast for programming purposes, and</p>	<p>Page 28</p> <p>1 the State, not by Fast?</p> <p>2 A. I would say yes. Those penalties would be in line</p> <p>3 with what our law and procedure says, and that would</p> <p>4 have been the direction that the agency had given to</p> <p>5 Fast for programming purposes.</p> <p>6 Q. Thank you. Then also is it fair to say that none of</p> <p>7 the Fast employees were involved in actually</p> <p>8 processing individual's claims?</p> <p>9 A. Absolutely not.</p> <p>10 Q. Right. In fact, that would have been considered a</p> <p>11 violation of the contract if Fast employees were</p> <p>12 actually doing the work of making determinations</p> <p>13 regarding employee -- excuse me -- regarding</p> <p>14 claimants; isn't that fair?</p> <p>15 A. That's correct, and we'd be in violation of DOL. Work</p> <p>16 can be performed by civil servants only.</p> <p>17 Q. So is it fair to say that any decision, to your</p> <p>18 knowledge, that was made regarding any claimant after</p> <p>19 the MiDAS program was in place, those were state</p> <p>20 decisions, not decisions by Fast?</p> <p>21 MR. ERNST: Objection to form.</p> <p>22 A. I would agree.</p> <p>23 BY MR. STIDHAM:</p> <p>24 Q. At some point in time there was a decision to stop</p> <p>25 what's been referred to as the auto adjudication</p>

<p style="text-align: right;">Page 29</p> <p>1 function of the MiDAS software; do you recall that?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Just so we're talking about the same thing, we</p> <p>4 talk about the auto adjudication function. What I'm</p> <p>5 referring to is the aspect of the program that would</p> <p>6 proceed with issuing an initial notice of</p> <p>7 determination if certain criteria were met?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. So again, at some point that was turned off</p> <p>10 while you were director, correct?</p> <p>11 A. That is correct. The restitution fraud portions of</p> <p>12 the program, correct.</p> <p>13 Q. Did Fast -- did Fast -- to your mind, did Fast</p> <p>14 properly comply with all state direction or agency</p> <p>15 direction to basically turn off that function of the</p> <p>16 software?</p> <p>17 A. Yes.</p> <p>18 Q. There's also been some allegations in this lawsuit</p> <p>19 relating to the content of notice letters, actually</p> <p>20 what was written and the verbiage that was in those</p> <p>21 notice letters?</p> <p>22 A. Yes.</p> <p>23 Q. To your knowledge, did Fast -- excuse me.</p> <p>24 To your knowledge, the content of any</p> <p>25 notice letter that was sent out from UIA while the</p>	<p style="text-align: right;">Page 31</p> <p>1 A. That is correct.</p> <p>2 Q. So isn't it fair to say that any determination</p> <p>3 regarding any claimants once the MiDAS project were in</p> <p>4 place, those were determinations by the agency, not by</p> <p>5 anyone acting in their individual nonemployee</p> <p>6 position?</p> <p>7 MR. ERNST: Objection to form.</p> <p>8 A. Correct.</p> <p>9 BY MR. STIDHAM:</p> <p>10 Q. There's also been some discussion in this case -- or</p> <p>11 some references in the complaint I guess I should say,</p> <p>12 that certain claimants were given information that was</p> <p>13 incorrect regarding their ability to appeal, or their</p> <p>14 ability to appeal determinations after certain</p> <p>15 deadlines had passed.</p> <p>16 Is it fair to say, to your knowledge, Fast</p> <p>17 and the other contractor defendants, SAS and CSG, did</p> <p>18 not play any role whatsoever in advising claimants</p> <p>19 regarding their rights to appeal, or deadlines</p> <p>20 relating to appeal?</p> <p>21 MR. ERNST: Objection to form.</p> <p>22 A. That would be fair to say.</p> <p>23 BY MR. STIDHAM:</p> <p>24 Q. It's not just something the contractors did?</p> <p>25 A. No, it was not.</p>
<p style="text-align: right;">Page 30</p> <p>1 MiDAS program was in place, is it fair to say the</p> <p>2 content of those letters was defined by the State, not</p> <p>3 by Fast?</p> <p>4 A. That would be fair to say, yes.</p> <p>5 Q. In fact, isn't it fair to say the content of those</p> <p>6 letters would be defined by the State, not by any</p> <p>7 contractor, whether it be Fast or CSG or SAS?</p> <p>8 A. Yes.</p> <p>9 Q. Is it similarly fair to say that any determinations</p> <p>10 regarding a claimant's eligibility for claims, any</p> <p>11 determination relating to fraud, any determination</p> <p>12 regarding benefits while the MiDAS program was in</p> <p>13 place, those were all state determinations, they were</p> <p>14 not determinations by any of the contractors, whether</p> <p>15 that be Fast Enterprises, CSG, or SAS?</p> <p>16 A. Correct.</p> <p>17 Q. Isn't it fair to say those were determinations by the</p> <p>18 agency -- similarly, those determinations regarding</p> <p>19 claimant's benefits or potential fraud, those were</p> <p>20 determinations by the agency, not by any of the</p> <p>21 individuals acting in their individual capacity that</p> <p>22 have been sued in this lawsuit; is that fair?</p> <p>23 A. Can you please repeat that?</p> <p>24 Q. Sure. You understand that in addition to you, other</p> <p>25 individuals have been sued in this lawsuit?</p>	<p style="text-align: right;">Page 32</p> <p>1 MR. STIDHAM: Just out of a courtesy to</p> <p>2 your attorney, I think we're having some technical</p> <p>3 difficulties. You want to take a little break,</p> <p>4 Debbie, just for that?</p> <p>5 MS. TAYLOR: If we could.</p> <p>6 MR. STIDHAM: Sure.</p> <p>7 VIDEO TECHNICIAN: We are off the record.</p> <p>8 The time is 9:52 a.m.</p> <p>9 (Off the record at 9:52 a.m.)</p> <p>10 (Back on the record at 10:07 a.m.)</p> <p>11 VIDEO TECHNICIAN: We are back on the</p> <p>12 record. The time is 10:07 a.m.</p> <p>13 BY MR. STIDHAM:</p> <p>14 Q. Thank you, Ms. Massey. We were talking about, before</p> <p>15 we got on the record, certain allegations that had</p> <p>16 been made in this complaint against Fast and the other</p> <p>17 contractors.</p> <p>18 Let me ask you this. Is it fair to say</p> <p>19 that none of the contractor defendants -- Fast, CSG,</p> <p>20 or SAS -- played any role or had any responsibility</p> <p>21 for relating to a garnishing or collecting federal tax</p> <p>22 returns or state tax refunds that were claimed by</p> <p>23 claimants of the UIA?</p> <p>24 MR. ERNST: Objection to form.</p> <p>25 A. Correct.</p>

<p style="text-align: right;">Page 33</p> <p>1 BY MR. STIDHAM:</p> <p>2 Q. So any of these allegations in the complaint regarding 3 garnishment or seizure of federal taxes, is it fair to 4 say it's your position that it's improper to make 5 those allegations against Fast Enterprises and the 6 other contractor defendants?</p> <p>7 MR. ERNST: Objection to form.</p> <p>8 A. Yes.</p> <p>9 BY MR. STIDHAM:</p> <p>10 Q. There's also some allegations in the complaint that 11 relate to income spreading, how that was used in 12 determining whether certain claimants should be 13 flagged for potential fraud; are you aware of that?</p> <p>14 A. I am aware of the income spreading.</p> <p>15 Q. Income spreading. Is it fair to say that Fast was not 16 involved in making any decisions about whether income 17 spreading was a concept that should be used in making 18 determinations relating to claimants?</p> <p>19 MR. ERNST: Objection to form.</p> <p>20 A. I would agree.</p> <p>21 BY MR. STIDHAM:</p> <p>22 Q. Fast just didn't have any role at all whatsoever 23 relating to this concept of income spreading; is that 24 fair?</p> <p>25 A. I would agree with that.</p>	<p style="text-align: right;">Page 35</p> <p>1 A. No. The appeal process was the same as it was prior 2 to the MiDAS. The only aspect would have been to help 3 us improve upon that through process improvement.</p> <p>4 Q. Okay. That would be -- that would be just improving 5 the process, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. But actually, making the -- actually, being 8 involved in an appeal that a claimant brought, that's 9 not something any of the contractor defendants would 10 be involved in, correct?</p> <p>11 A. Absolutely not.</p> <p>12 Q. I asked that as a negative again.</p> <p>13 A. I know.</p> <p>14 Q. Were the contractor defendants involved in any way in 15 the appeals process that was available to claimants 16 once the MiDAS project was in place?</p> <p>17 MR. ERNST: Objection to form.</p> <p>18 A. No, they were not.</p> <p>19 BY MR. STIDHAM:</p> <p>20 Q. To your knowledge, are you aware of anything that Fast 21 or any of its employees did that you consider improper 22 as it relates to work on the MiDAS project?</p> <p>23 MR. ERNST: Objection to form.</p> <p>24 A. No.</p> <p>25 BY MR. STIDHAM:</p>
<p style="text-align: right;">Page 34</p> <p>1 Q. Is it also fair relating to the other defendants, CSG 2 and Fast, that those defendants didn't have any role 3 relating to this issue of income spreading that is 4 alleged in the complaint?</p> <p>5 A. To my knowledge, no.</p> <p>6 MR. ERNST: Form.</p> <p>7 BY MR. STIDHAM:</p> <p>8 Q. I didn't ask that question very well.</p> <p>9 Did the other contractor defendants, CSG or 10 Fast, have any role in relating to this issue of 11 income spreading?</p> <p>12 A. To my knowledge, no.</p> <p>13 Q. Sorry to reask, I just had asked the question as a 14 negative, so it got confusing.</p> <p>15 A. Okay.</p> <p>16 Q. Did Fast have any role whatsoever relating to the 17 appeals process that claimants had available to them 18 once the MiDAS project was in place?</p> <p>19 A. No.</p> <p>20 Q. Similar question as it relates to the other contractor 21 defendants.</p> <p>22 Did SAS or CSG have any role at all 23 relating to the appeal process, processes, that would 24 be available to claimants after the MiDAS project was 25 in place?</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. Same question as to the other contractor defendants.</p> <p>2 Are you aware of anything that either CSG, its 3 employees, or SAS or its employees did that you 4 consider was improper relating to the MiDAS project?</p> <p>5 MR. ERNST: Objection, form.</p> <p>6 A. No.</p> <p>7 BY MR. STIDHAM:</p> <p>8 Q. I'm not -- are you aware that there's been some 9 motions filed and motions to dismiss filed in this 10 case?</p> <p>11 A. Yes, but I can't tell you I followed what was 12 dismissed was still on and any settlements, because I 13 was reassigned after even the settlement was in place 14 and in motion, so I was reassigned.</p> <p>15 Q. I meant in this lawsuit, the lawsuit that's filed 16 against you and Fast.</p> <p>17 A. Yes, I am.</p> <p>18 Q. Okay. Not any claimant appeals.</p> <p>19 A. Okay.</p> <p>20 Q. I was switching to our lawsuit that we're here for 21 today.</p> <p>22 So do you understand that there's really 23 one cause of action left in this case, and that 24 relates to allegations of violations of due process; 25 are you aware of that?</p>

<p>1 A. Yes, I am.</p> <p>2 Q. Is Fast -- is it true that Fast -- let me ask it this 3 way.</p> <p>4 Did Fast play any role whatsoever from your 5 perspective in making decisions relating to what due 6 process should be afforded to claimants?</p> <p>7 A. No.</p> <p>8 Q. Okay. What about as it relates to the other 9 contractor defendants, did SAS or CSG play any role 10 whatsoever in determining what due process should be 11 provided to claimants?</p> <p>12 A. No.</p> <p>13 Q. From your perspective is there anything that any of 14 the contractor defendants, Fast, CSG, and SAS did -- 15 well, strike that.</p> <p>16 In your opinion, did Fast, CSG, or SAS do 17 anything which you believe adversely affected the due 18 process rights of claimants?</p> <p>19 A. No.</p> <p>20 MR. STIDHAM: I don't have any more 21 questions at this time. By the way, thanks for your 22 patience, Ms. Moffett-Massey.</p> <p>23 THE WITNESS: You're welcome.</p> <p>24 MR. ROSENFELD: Good morning, Ms. 25 Moffett-Massey. As I mentioned to you off the record,</p>	<p>Page 37</p> <p>1 those determinations to CSG?</p> <p>2 A. No, it did not.</p> <p>3 Q. Just to be clear, I think maybe you answered this, but 4 did the State ever delegate any of its duties to make 5 those determinations to Fast or SAS?</p> <p>6 A. No.</p> <p>7 Q. So is it true then that CSG, Fast, or SAS never had 8 any authority to make any determinations or adjudicate 9 anything having to do with claimants' benefits in the 10 unemployment context?</p> <p>11 MR. ERNST: Objection to form.</p> <p>12 A. I would agree with that.</p> <p>13 BY MR. ROSENFELD:</p> <p>14 Q. Is it also true that CSG had no authority and made no 15 decisions with respect to notice given to claimants or 16 any penalties or consequences with respect to any 17 adverse employment decisions?</p> <p>18 MR. ERNST: Form.</p> <p>19 A. I would agree.</p> <p>20 BY MR. ROSENFELD:</p> <p>21 Q. And you understand that the MiDAS system -- Strike 22 that.</p> <p>23 The State made certain determinations as to 24 what it wanted the MiDAS system to flag as potentially 25 indicative of fraud, correct?</p>
<p>1 my name is Steve Rosenfeld and I represent CSG 2 Government Solutions. I just have a couple, and I 3 mean very few, questions to clarify a couple things on 4 behalf of CSG.</p> <p>5 THE WITNESS: Sure.</p> <p>6 EXAMINATION</p> <p>7 BY MR. ROSENFELD:</p> <p>8 Q. Mr. Stidham asked you about contracts between Fast and 9 the State; do you recall that?</p> <p>10 A. Yes, I do.</p> <p>11 Q. You also understand that CSG had a contract with the 12 State?</p> <p>13 A. Yes, I'm aware of that.</p> <p>14 Q. Are you aware of any issues with the work that CSG did 15 at all in connection with its contract with the State?</p> <p>16 A. No, I'm not aware of any issues.</p> <p>17 Q. Is it your understanding that the State directed CSG 18 with respect to that contract?</p> <p>19 A. Yes, I would agree with that.</p> <p>20 Q. The State has duties -- and you talked about them with 21 Mr. Stidham -- the State has duties to make certain 22 determinations for claimants in the unemployment 23 realm, correct?</p> <p>24 A. That is correct.</p> <p>25 Q. Did the State ever delegate any of its duties to make</p>	<p>Page 38</p> <p>1 A. Can you repeat that?</p> <p>2 Q. Sure. You understand that the MiDAS software flagged 3 certain claimants based on certain criteria as having 4 items that were potentially indicative of fraud?</p> <p>5 A. Correct, yes.</p> <p>6 Q. And the basis for flagging those claimants as 7 potentially indicative of fraud was determined by the 8 State, correct?</p> <p>9 A. Yes, the criteria that was used.</p> <p>10 Q. Right. Then the State then directed the contractor 11 defendants to implement that criteria within the 12 software, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Mr. Stidham asked you with regard to Fast whether any 15 Fast employees were involved in adjudicating or 16 working on individual claim files, I'm going to ask 17 you the same thing for the others.</p> <p>18 So is it true that no CSG or SAS employees 19 ever worked on or had any role in adjudicating 20 individual claim files?</p> <p>21 A. That is a correct statement.</p> <p>22 Q. So any decision with respect to unemployment benefits 23 for an individual claimant was a decision made by the 24 State, true?</p> <p>25 A. Yes.</p>

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1 Q. And any decision with regard to how to notify 2 claimants of certain decisions or information needed 3 by the State was dictated by state policy, true? 4 A. Yes, that would be correct. 5 Q. So neither Fast nor CSG nor SAS had any role in the 6 decisions with regard to notice, true? 7 A. Correct. 8 Q. I apologize if this question has been asked before, 9 but let me just clarify it. 10 So I just asked you about decisions with 11 regard to benefits for individual claimants. 12 A. That is correct. 13 Q. Then I asked you about notice given to individual 14 claimants. 15 A. That is correct. 16 Q. But let me just clarify. The content of the notice 17 given to individual claimants, that was dictated by 18 state policy, true? 19 A. Yes. 20 Q. None of the -- none of the contractor defendants -- 21 Fast, CSG, OR SAS -- had anything to do with the 22 content of that notice, true? 23 MR. ERNST: Objection, form. 24 A. That is true. 25 BY MR. ROSENFELD:	1 of the communications to claimants was reviewed and 2 approved by the State, correct? 3 A. Yes, I would agree. 4 Q. And none of the claimants had anything to do with the 5 specific language in those notices, true? 6 MR. ERNST: Objection to form. 7 A. That is true. None of the claimants? None of the 8 contractors. 9 BY MR. ROSENFELD: 10 Q. Well, none of the claimants did either? 11 A. No, they did not either. 12 Q. None of the contractors had anything to do with the 13 specific languages in those notices, true? 14 A. True. 15 MR. ROSENFELD: I have no further 16 questions. 17 MR. ERNST: I'm up? 18 MS. TAYLOR: Do you want tea? Are you all 19 set? 20 THE WITNESS: Uh-huh. 21 EXAMINATION 22 BY MR. ERNST: 23 Q. Who did approve the specific language in those 24 notices. 25 A. That language was approved by the work groups that
Page 42	Page 44
1 Q. None of the contractor defendants had anything to do 2 with the manner that that notice was given to 3 individual claimants, true? 4 MR. ERNST: Objection, form. 5 A. That is correct. 6 BY MR. ROSENFELD: 7 Q. Because the manner that notice was given to individual 8 claimants was dictated by the State, true? 9 A. That is correct. 10 Q. And none of the individual contractor defendants had 11 anything to do with the amount of notice, meaning how 12 long that notice period was, for any individual 13 claimant, true? 14 A. Correct. 15 Q. Because that amount of notice was dictated by state 16 policy, true? 17 A. That is correct. 18 Q. And none of the contractor defendants -- not Fast, not 19 CSG, and not SAS -- had anything to do with the amount 20 of notice given to plaintiffs, true? 21 A. True. 22 Q. And actually, not just to plaintiffs, but to any 23 claimant? 24 A. Correct. 25 Q. So the specific language of all of the notices and all	1 were put in place working with those contractors. The 2 initial notices that, you know, how the system was 3 initially programmed in MiDAS, that would have come 4 from the work group itself, it would have been signed 5 off by that work group lead, and I would say -- 6 Q. Who is that person? 7 MR. ROSENFELD: Let her finish. 8 MS. TAYLOR: Please. 9 THE WITNESS: If I could continue to 10 explain. 11 BY MR. ERNST: 12 Q. Go ahead. 13 A. It is my knowledge at the time the main lead was Clay 14 Tierney, he was overtaking MiDAS at that time. 15 MR. ROSENFELD: Kevin, why don't you 16 introduce yourself. 17 MR. ERNST: I'm sorry. This is Kevin Ernst 18 for the plaintiff asking the questions. 19 BY MR. ERNST: 20 Q. Who was part of that -- who else was part of that work 21 group besides Mr. Tierney? 22 MR. STIDHAM: Objection, form, vague. 23 A. I can't give you all the names. Like I said, I was 24 not in the role as the director, I was not a part of 25 the work group. As a RICC director I would have

<p style="text-align: right;">Page 45</p> <p>1 received somewhat like agency updates as all staff was 2 receiving agency updates. 3 I would have to defer that to my 4 codefendant, Clay Tierney, or one of the individuals 5 that actively worked on the work groups. They can 6 tell you who was attending regularly and who was 7 helping to make those decisions as how the system 8 should give notice. 9 But most of those notices -- I would say 10 all of those notices would have had to have been 11 within the guidelines of our current procedure in law 12 and guidance that we receive from DOL, they would have 13 to be; we can't work around that or else we're not 14 funded as an agency.</p> <p>15 BY MR. ERNST:</p> <p>16 Q. So you're bound by the federal regulations from the 17 Department of Labor?</p> <p>18 A. Correct.</p> <p>19 MS. TAYLOR: Object to the form.</p> <p>20 THE WITNESS: And our MES Act of course.</p> <p>21 BY MR. ERNST:</p> <p>22 Q. And you mentioned that the work group consisted of 23 state employees like Mr. Tierney and some of the 24 contractors.</p> <p>25 MR. ROSENFIELD: Objection.</p>	<p style="text-align: right;">Page 47</p> <p>1 contractors did not write our law and procedure; so 2 I'm answering from that standpoint only. 3 BY MR. ERNST: 4 Q. Okay. And who developed the flagging criteria? 5 A. I do not know. 6 Q. So then you don't know whether the private contractors 7 had a role in developing that flagging criteria, 8 correct? 9 A. They would have to know the procedure and our law, as 10 well as the DOL guidance in order to develop that, 11 because it would have to be in line with not violating 12 any type of steps that are required in order to 13 adjudicate a claim that would potentially lead to 14 recitation and/or fraud. 15 Q. Fast asked you near the beginning our -- Fast attorney 16 asked you at the beginning whether you agreed that 17 Fast provided software for government agency and 18 provided the MiDAS system for the UIA, remember that? 19 MR. STIDHAM: Objection, mischaracterizes 20 the question. 21 A. Yes. 22 BY MR. ERNST: 23 Q. Your understanding was Fast was a company that 24 provided software for other states as well, correct? 25 A. Yes.</p>
<p style="text-align: right;">Page 46</p> <p>1 MS. TAYLOR: Objection, mischaracterizes 2 her testimony. She said she wasn't there when work 3 groups were actually put together, so she doesn't have 4 any knowledge as to who was actually involved in the 5 work group. 6 MR. ROSENFIELD: Join. 7 MR. STIDHAM: Join. 8 MR. ERNST: Please stop coaching the 9 witness with your talking objections. 10 MS. TAYLOR: I'm not coaching her. 11 A. But I did say I do not know who all was on those work 12 groups. There were many work groups for every aspect 13 that -- with every piece of the programming that was 14 put into MiDAS from the tax side to the benefit side. 15 BY MR. ERNST: 16 Q. So you never attended any of those work groups, did 17 you? 18 A. I was not part of the work groups. 19 Q. So you can't say whether or not any of the private 20 contractors did play a role in crafting that language? 21 MR. STIDHAM: Objection, vague. 22 MS. TAYLOR: Object to form. 23 MR. STIDHAM: Object to form, excuse me. 24 A. The reason I would say that is only because it was 25 based on our law and procedure, and I know the</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. And they provided software for unemployment agencies 2 in other states, correct? 3 A. I agree. 4 Q. So you would agree that they would presumably have 5 expertise in the area of unemployment insurance agency 6 law? 7 MR. STIDHAM: Objection to form. 8 MS. TAYLOR: Foundation also. 9 A. I would not know that question. 10 MS. DOUGLAS: For the record, do we have a 11 continuing if anyone objects, we all object? 12 MR. ERNST: Sure, I agree to that. 13 MS. DOUGLAS: Thank you. 14 BY MR. ERNST: 15 Q. So would you expect that Fast would know some of the 16 federal regulations that would apply to uninsurance 17 agencies and the administration of uninsurance 18 benefits? 19 MR. ROSENFIELD: Objection, calls for 20 speculation, and form. 21 MR. STIDHAM: And object to foundation. 22 A. I would say only what they would be told by their 23 client in line with the needs to have that client. 24 Each state has different unemployment 25 insurance laws. No one state laws are the same.</p>

<p>1 don't know what the rationale was for doing that.</p> <p>2 BY MR. ERNST:</p> <p>3 Q. I'm sorry. I didn't ask you the rationale. I said 4 what were the benefits to the agency?</p> <p>5 A. I don't know the benefits of that to the agency. We 6 can only be paid for one week of eligibility, a cep or 7 noncep.</p> <p>8 I guess I'm not seeing it in terms of 9 monetary. I'm seeing it in terms of a quality -- a 10 claimant understanding exactly what the individual is 11 being held ineligible for when it's broken down.</p> <p>12 Q. You think that that made -- when a claimant received 13 multiple determinations, that made it more clear or 14 less clear for the claimant?</p> <p>15 MS. TAYLOR: Objection, form and 16 foundation.</p> <p>17 A. It depends on the claimant's understanding of 18 unemployment insurance. I would guess if you see each 19 week broken down, you know, exactly each week.</p> <p>20 Sometimes a period coming through, you're 21 not looking at the number of weeks that are involved. 22 It all depends on each individual person, how they 23 read it and understood it.</p> <p>24 BY MR. ERNST:</p> <p>25 Q. So do you think for a claimant having a file with two</p>	<p>Page 281</p> <p>1 MR. STIDHAM: If you want -- 2 MS. TAYLOR: She answered the question. 3 You were talking, she answered the question.</p> <p>4 BY MR. ERNST:</p> <p>5 Q. I'm sorry, go ahead.</p> <p>6 A. I can't say that it would be.</p> <p>7 Q. Did this bifurcation create efficiency in the system?</p> <p>8 MS. TAYLOR: Objection, form and 9 foundation.</p> <p>10 MR. STIDHAM: Objection to system.</p> <p>11 MS. TAYLOR: Using the term bifurcation, 12 she's already --</p> <p>13 MR. STIDHAM: You're not referring to MiDAS 14 software?</p> <p>15 MR. ERNST: I'm referring to the agency in 16 general.</p> <p>17 MS. PENDRICK: All of it? Anything?</p> <p>18 MR. ROSENFELD: Objection to relevance.</p> <p>19 MS. PENDRICK: Form.</p> <p>20 A. I don't know if it created efficiency, I don't know 21 that.</p> <p>22 BY MR. ERNST:</p> <p>23 Q. Well, it created a big appellate backlog; you'd agree 24 with that, wouldn't you?</p> <p>25 MS. TAYLOR: Objection, form, foundation,</p>
<p>Page 282</p> <p>1 or three appeals as opposed to one, would be 2 beneficial to the claimant?</p> <p>3 MS. TAYLOR: Objection, form and 4 foundation.</p> <p>5 MR. STIDHAM: Continuing objection as to 6 relevance to this case.</p> <p>7 A. I don't know. Some individuals, one is convenient, 8 some three is okay, because one I agree with, two I 9 don't. One I feel I was held ineligible and it's 10 correct, the second or third week, maybe not.</p> <p>11 So it just depends on that claimant and 12 their given situation; each case is different.</p> <p>13 BY MR. ERNST:</p> <p>14 Q. Do you think it's more burdensome to have to file 15 three appeals than one?</p> <p>16 MS. TAYLOR: Objection, asked and answered.</p> <p>17 MR. ROSENFELD: Incomplete hypothetical.</p> <p>18 MR. STIDHAM: Continuing objection to 19 relevance to this case, this is not a part of this 20 case.</p> <p>21 A. I can't say that it is.</p> <p>22 MR. ERNST: You don't understand the 23 process.</p> <p>24 BY MR. ERNST:</p> <p>25 Q. Go ahead.</p>	<p>Page 284</p> <p>1 calls for speculation.</p> <p>2 A. That would depend on whether an individual requested a 3 hearing.</p> <p>4 BY MR. ERNST:</p> <p>5 Q. Well, didn't the appellate -- didn't the number of 6 appeals go up considerably after this bifurcation 7 issue went into effect?</p> <p>8 MS. TAYLOR: Objection, you asked this 9 question earlier, and she's already answered this.</p> <p>10 Also form and foundation.</p> <p>11 BY MR. ERNST:</p> <p>12 Q. You can answer.</p> <p>13 A. I don't know if their backlog went up more or -- than 14 what it was already before MiDAS. I would imagine 15 that individuals appeal, so their backlog would go up; 16 how significant, I don't know.</p> <p>17 Q. Can you tell me when the auditor general's audit 18 occurred? I'm not asking when the report was issued, 19 but when the actual audit occurred.</p> <p>20 MS. PENDRICK: Objection to form.</p> <p>21 MS. TAYLOR: In what time period?</p> <p>22 A. I don't know the exact dates of when they came in.</p> <p>23 BY MR. ERNST:</p> <p>24 Q. Can you approximate it for me?</p> <p>25 A. I know it was going from the summer into the fall. It</p>

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1 was either '14 or '15, I can't tell you exactly.	1 question.
2 Q. When you say '14 or '15, you mean --	2 THE WITNESS: Okay.
3 A. 2014 or 2015.	3 MR. ERNST: I'm done.
4 Q. It was summer or fall of 2014 or 2015?	4 MS. TAYLOR: Objection, form.
5 A. Uh-huh.	5 MR. ROSENFIELD: Well, why don't you restate
6 Q. Is that a yes?	6 the question.
7 A. Yes.	7 MR. ERNST: She understands it.
8 MR. STIDHAM: Just to be fair to the	8 MR. ROSENFIELD: Well, I don't understand
9 witness, the audit itself says that it covered the	9 it.
10 period from September 30th, 2015.	10 MR. ERNST: That's not my problem.
11 THE WITNESS: Okay.	11 MS. TAYLOR: Do you know what the question
12 BY MR. ERNST:	12 is?
13 Q. Did there come a time when the auto adjudication	13 THE WITNESS: I think you're asking --
14 function of MiDAS was disabled?	14 MR. ROSENFIELD: No, don't ask him what he's
15 A. Yes.	15 thinking.
16 Q. When was that?	16 MS. TAYLOR: Do you know what his question
17 A. August of 2015.	17 was? Not I think, do you know? And if not, ask him
18 Q. Why was that?	18 to repeat it.
19 A. Well, as the director, I had heard from staff and	19 THE WITNESS: Well, so that I can answer
20 face-to-face internal town hall meetings, staff --	20 it, could you please restate it?
21 meetings with staff just to hear how things were going	21 BY MR. ERNST:
22 for them and answer questions.	22 Q. I said, Are you contending that your decision to
23 A few of them had mentioned that they had	23 discontinue the MiDAS auto adjudication was not based
24 seen fraud attached to eligibility issues that I had	24 on all the fraud complaints that were levied and
25 not seen before, such as a registration or late	25 discussed in public and elsewhere?
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1 filing, late recording; these are only dealing with	1 MS. TAYLOR: Objection, form, foundation.
2 periods of ineligibility, not fraud. I wasn't sure if	2 I don't know what fraud complaints mean.
3 it was an anomaly or the scope, and I figured we	3 A. What type of complaints, because there were complaints
4 needed to take a look at it.	4 all the time, not just -- I mean, there were
5 And in doing so -- or I asked that we have	5 individuals complain because they had fraud, even
6 a sampling of cases, which I never really received a	6 though fraud was committed.
7 final report, but I was concerned enough to make sure	7 So I guess I need you to clarify that,
8 that things were running as we intended them to be	8 because if that's the case, we would have stopped it
9 running with respect to the auto adjudication process.	9 as soon as we started it, because no wants to have
10 It wasn't a matter of the fraud or the	10 fraud attached to their claim.
11 restitution, but our things programed in running the	11 BY MR. ERNST:
12 way that we intended them to, with them making the	12 Q. There were complaints that there were false fraud
13 comments that they made, because as I mentioned, I	13 determinations, you're not aware of any of those
14 wasn't sure how many or the number that was involved.	14 complaints?
15 So hearing this, I asked Clay Tierney, I	15 MS. TAYLOR: Objection form and foundation.
16 remember, and Dan Simon, and I'm not sure whoever was	16 MR. STIDHAM: Also mischaracterizes her
17 in attendance at the meeting, that this process, we	17 testimony, argumentative.
18 need to -- we need to have it stopped and take a look	18 A. There were complaints about fraud where individuals
19 at it more closely to see exactly what's happening.	19 felt they shouldn't have been assessed fraud; I was
20 Q. So your claim is that you discontinued the auto	20 aware of that.
21 adjudication program -- or your decision to	21 There were a number of complaints which was
22 discontinue it was not based on all the fraud	22 taken into consideration in addition to what staff was
23 complaints that had been levied in the public and --	23 saying. If that answers your question.
24 A. Oh, that.	24 BY MR. ERNST:
25 MR. ROSENFIELD: Let him finish his	25 Q. Are you testifying that you were unaware that there

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<p>1 were widespread allegations of false fraud claims?</p> <p>2 A. I did not say that.</p> <p>3 MS. TAYLOR: Objection, form and</p> <p>4 foundation.</p> <p>5 THE WITNESS: I did not say that.</p> <p>6 BY MR. ERNST:</p> <p>7 Q. So you were aware of that?</p> <p>8 MR. ROSENFELD: Hold on.</p> <p>9 A. Yes.</p> <p>10 BY MR. ERNST:</p> <p>11 Q. That's the basis that you shut down the robo</p> <p>12 adjudication feature of MiDAS, correct?</p> <p>13 MS. TAYLOR: Objection, she's already</p> <p>14 answered that.</p> <p>15 A. That is not what I said.</p> <p>16 MR. STIDHAM: Also objection to the term</p> <p>17 robo adjudication.</p> <p>18 BY MR. ERNST:</p> <p>19 Q. Despite your awareness of the widespread complaints</p> <p>20 about false fraud adjudications, you did not stop or</p> <p>21 put a moratorium on collection activity, correct?</p> <p>22 MS. TAYLOR: Form and foundation.</p> <p>23 A. No. Collection, it starts after that process of</p> <p>24 adjudication. Those days, once the days elapse,</p> <p>25 collection begins, if the person had appealed,</p>	<p>1 But as far as the discharge of bankruptcy,</p> <p>2 can you please restate the second half of that</p> <p>3 question or the second portion of it?</p> <p>4 BY MR. ERNST:</p> <p>5 Q. Are you aware that if there's a fraud allegation</p> <p>6 surrounding a debt, that you cannot discharge that</p> <p>7 debt in bankruptcy? In other words, you can't get rid</p> <p>8 of it?</p> <p>9 A. That is correct.</p> <p>10 Q. And despite your knowledge of widespread allegations</p> <p>11 of false fraud adjudications, you did nothing to stop</p> <p>12 those bankruptcy proceedings in which the UIA</p> <p>13 prevented the discharge of the debt, correct?</p> <p>14 MS. TAYLOR: Object to form.</p> <p>15 MR. STIDHAM: Also vague as to time.</p> <p>16 A. I didn't specifically do something to stop them. Each</p> <p>17 case was taken on its own merit, and that fell under</p> <p>18 Steve Geskey's preview, so he would have done his due</p> <p>19 diligence with the staff involved to take a look at</p> <p>20 those cases.</p> <p>21 They did not come to my attention, per se,</p> <p>22 nor did I do an overall moratorium, like you said, to</p> <p>23 stop them. No, I did not.</p> <p>24 BY MR. ERNST:</p> <p>25 Q. Geskey was your subordinate, correct?</p>
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<p>1 protested. If not in a timely fashion, that</p> <p>2 collection continued.</p> <p>3 BY MR. ERNST:</p> <p>4 Q. But you would agree that multiple times when the</p> <p>5 person missed their deadline to appeal, there were --</p> <p>6 the underlying charge was a false fraud adjudication</p> <p>7 because they didn't respond in time, but they didn't</p> <p>8 really commit the fraud, correct?</p> <p>9 MS. TAYLOR: Objection, form, foundation --</p> <p>10 A. I don't know that.</p> <p>11 MS. TAYLOR: Just wait, Sharon. Form,</p> <p>12 foundation, and you're requesting that she speculate.</p> <p>13 BY MR. ERNST:</p> <p>14 Q. And despite your knowledge of the wide spread false</p> <p>15 fraud adjudications, you continued to approve</p> <p>16 bankruptcy adversarial complaints to prevent the</p> <p>17 discharge of the debt in a bankruptcy proceeding,</p> <p>18 correct?</p> <p>19 MS. TAYLOR: Objection, form, foundation.</p> <p>20 MR. STIDHAM: Objection, argumentative,</p> <p>21 mischaracterizes prior testimony.</p> <p>22 MR. ROSENFELD: Objection, relevance.</p> <p>23 A. You started out the question with despite me knowing.</p> <p>24 I was aware of the complaints that were -- that came</p> <p>25 in so, I'm not sure why you continue to say that.</p>	<p>1 A. That is correct.</p> <p>2 MR. ROSENFELD: Kevin, we're at seven hours</p> <p>3 now for your questioning, so I think you've reached</p> <p>4 your limit with this witness.</p> <p>5 MR. ERNST: Show me where there's a time</p> <p>6 limit.</p> <p>7 MR. ROSENFELD: Federal rule of civil</p> <p>8 procedure.</p> <p>9 MR. STIDHAM: Are you serious.</p> <p>10 MR. ROSENFELD: You're unaware of the</p> <p>11 federal rule of civil procedure?</p> <p>12 MR. ERNST: I'm aware of the federal rule</p> <p>13 of civil procedure, but let's see what it says,</p> <p>14 because we've had multiple breaks.</p> <p>15 MR. ROSENFELD: No, no, no, no, no, no, no.</p> <p>16 Testifying time.</p> <p>17 MR. STIDHAM: Can the videographer tell us</p> <p>18 what the testifying time has been for Mr. Ernst's</p> <p>19 testimony?</p> <p>20 MR. ERNST: Questioning.</p> <p>21 MR. STIDHAM: Questioning, thank you.</p> <p>22 VIDEO TECHNICIAN: Right now it's at 7:02.</p> <p>23 MR. STIDHAM: That's how it works, Kevin,</p> <p>24 he's the one that keeps the numbers on the</p> <p>25 questioning.</p>

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1 CERTIFICATE OF NOTARY

2 STATE OF MICHIGAN)

3) SS

4 COUNTY OF OAKLAND)

5

6 I, RANDEE SHARFMAN, certify that this
7 deposition was taken before me on the date
8 hereinbefore set forth; that the foregoing questions
9 and answers were recorded by me stenographically and
10 reduced to computer transcription; that a review of
11 the transcript by the deponent was not requested; that
12 this is a true, full and correct transcript of my
13 stenographic notes so taken; and that I am not related
14 to, nor of counsel to, either party nor interested in
15 the event of this cause.

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22 RANDEE SHARFMAN, CSR-1392

23 Notary Public,

24 Oakland County, Michigan

25 My Commission expires: 3-22-21